HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G.V. SEETHAPATHY

Writ Appeal No.726 of 2006

Between:

B. Nagendra Rao … Appellant

And

P. Jaya Prasad (Gandhi) & others. … Respondents

:: JUDGMENT ::

Counsel for the Appellant : Sri M. L. Ali

Counsel for Respondent No.1 : Sri Y.V.Srinivasan

Counsel for Respondent Nos.2 & 3 : Government Pleader for Panchayat Raj.

29th June, 2006

Per G.S.Singhvi, C.J.

This appeal is directed against order dated 21-6-2006 passed by the learned Single Judge in WPMP.No.15479 of 2006 in Writ Petition No.12449 of 2006 whereby he directed Revenue Divisional Officer and Deputy District Election Authority, Eluru (Respondent No.2) and Returning Officer, Mandal Parishad, Pedavegi, West Godavari District (respondent No.3) to accept the nomination of the writ petitioner (respondent No.1) for Mandal Parishad Territorial Constituency, Rayannapalem, Pedavegi

Mandal and allow him to contest the election scheduled to be held on 2-7-2006.

At the commencement of hearing, we pointed out to the learned counsel for respondent No.1, Sri Y.V. Srinivasan that in an identical matter (Writ Appeal SR.No.65599 of 2006), State Election Commissioner v. M.Rajendra Prasad and others, the Division Bench has set aside interlocutory order dated 21-6-2006 passed by the learned Single Judge in WPMP.No.15303 of 2006 in Writ Petition No.12308 of 2006 whereby a direction similar to the one impugned in this appeal was given. A copy of order dated 23-6-2006 passed in Writ Appeal SR.No.65599 of 2006 was also shown to the learned counsel for respondent No.1, who fairly stated that in view of that order, the Court may dispose of the main writ petition along with writ appeal with liberty to his client to avail remedy by filing election petition under Section 233 of the Andhra Pradesh Panchayat Raj Act, 1994 read with Rule 12 of the Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995.

We appreciate the fair stand taken by the learned counsel for respondent No.1 and dispose of the matter in the following terms:

1) Writ Petition No.12449 of 2006 filed by respondent No.1 questioning the rejection of his nomination paper is dismissed as not maintainable with liberty to respondent No.1 to file election petition after completion of the process of election,

2) Writ Appeal No.726 of 2006 shall stand allowed and order dated 21-6-2006 passed by the learned Single Judge in WPMP.No.15479 of 2006 in Writ Petition No.12449 of 2006 shall

stand set aside, and

3) All miscellaneous petitions and applications filed in the writ petition and writ appeal shall be deemed to have become infructuous and are disposed of as such.

The detailed reasons recorded in Order dated 23-6-2006 passed in Writ Appeal SR.No.65599 of 2006 shall be read as part of this order.

While disposing of the writ petition and writ appeal in the manner indicated above, we make it clear that the result of the election would remain subject to adjudication of the election petition, if any, filed by respondent No.1.

G.S.SINGHVI, C.J.

29th June, 2006

G.V.SEETHAPATHY, J.

ARS/svs